

Courtroom Observation Report

Judges can alleviate much of the public dissatisfaction with the judicial branch by paying critical attention to the key elements of procedural fairness: voice, neutrality, respectful treatment, and engendering trust in authorities. Judges must be aware of the dissonance that exists between how they view the legal process and how the public before them view it. While judges should definitely continue to pay attention to creating fair outcomes, they should also tailor their actions, language, and responses to the public's expectations of procedural fairness. By doing so, these judges will establish themselves as legitimate authorities; substantial research suggests that increased compliance with court orders and decreased recidivism by criminal offenders will result. Procedural fairness also will lessen the difference in how minority populations perceive and react to the courts.

Hon. Kevin Burke, Minnesota District Court, Hennepin County, and

Hon. Steve Leben, Kansas Court of Appeals

"Procedural Fairness: A key ingredient in public satisfaction," Court Review

This observation report has two parts.

Part I is based on the principles of procedural justice. Please describe:

- 1) The behaviors that you observe; and
- 2) Your personal reaction to those behaviors.

Be as detailed as you can in describing the judge's behaviors as well as your reaction to them. Do not expect to see all of the listed sample behaviors each time you observe.

Part II asks additional, more general questions and provides an opportunity to comment on other aspects of your courtroom experience not covered in Part I.

Judge Name: _____
Last Name First Name

Court Location: _____
City County

Date(s) of observation: _____

Type(s) of proceedings observed: _____

Was the judge aware of this observation? ☐ Yes ☐ No ☐ Unknown

Any additional comments can be made in Part II of the report

Part I

Neutrality

People bring their disputes to the court because they view judges as neutral, principled decision makers who make decisions based upon rules and not personal opinions, and who apply legal rules consistently across people and over cases.

Tom Tyler, "Procedural Justice and the Courts," Court Review

Consider, for example, whether the judge:

- displayed judicial fairness and impartiality toward all parties;
- acted in the interests of the parties without regard to personal prejudices;
- listened carefully and impartially;
- applied rules consistently across people and over cases;
- maintained a neutral demeanor or expression while in court;
- was open, clear, and transparent about how the rules of law were applied and how decisions were being made;
- consistently treated participants equally and displayed behavior appropriate for the situation;
- was unhurried, patient and careful.

1. How would you describe this judge's ability to be neutral, principled and consistent?

Observer comments:

Respect

Respect includes treating people well, that is, with courtesy and politeness, and showing respect for people's rights.

Providing people with information about what to do, where to go, and when to appear, all demonstrate respect for both those people and their right to have their problems handled fairly by the courts.

Tom Tyler, "Procedural Justice and the Courts," Court Review

Consider, for example, whether the judge:

- provided participants with specific information about what to do, where to go, and when to appear;
- treated everyone with courtesy, dignity, and respect;
- maintained appropriate courtroom tone & atmosphere;
- demonstrated appropriate consideration for the rights of all persons in the court;
- demonstrated an intention to do what is right for everyone involved;
- helped interested parties understand decisions and what parties must do as a result;
- used clear language when speaking to jurors, litigants, witnesses, and attorneys;
- demonstrated respect for people's time and acknowledged their patience as needed;
- demonstrated interest in the needs, problems, and concerns of participants;
- seemed prepared for the proceedings;
- demonstrated appropriate body language (e.g., eye contact, facial expressions, posture, attire);
- demonstrated respectful voice quality (e.g., pitch, volume, tone);
- clearly articulated awareness of the practical impact on the parties of the judge's rulings, including the effect of delay and increased litigation expense;
- clearly explained the reasons for his/her decisions when appropriate.

2. How would you describe this judge's respect for people and their rights?

Observer Comments:

Respect Continued:

Voice

People want to have the opportunity to tell their side of the story in their own words before decisions are made about how to handle the dispute or problem. Having an opportunity to voice their perspective has a positive effect upon people's experience with the legal system irrespective of their outcome, as long as they feel that the authority sincerely considered their arguments before making their decisions.

Tom Tyler, "Procedural Justice and the Courts," Court Review

Consider, for example, whether the judge:

- allowed participants to voice their perspectives/arguments;
- demonstrated to the parties that their story or perspective had been heard;
- behaved in a manner that showed the judge had fully considered the case as presented through witnesses, arguments, and documents before the court;
- attended, where appropriate, to the participants' comprehension of the proceedings.

3. How would you describe this judge's skill at providing the participants a voice in the proceedings?

Observer Comments:

Part II

A:

Understanding that the Judicial Performance Evaluation Commission will ultimately recommend that the voters retain a judge or not, is there anything else you would like the commission to know about your courtroom observation experience?

Consider, for example:

- the organization, administrative efficiency and/or timeliness of this judge's court;
- whether the judge earned your trust and/or seemed to earn the trust of others in the courtroom;
- the overall strengths and weaknesses of this judge's performance; and
- anything else particularly notable about your courtroom observation experience, not already covered in the report.

Observer Comments:

B: If you were to appear before this judge as a litigant, would you have confidence that this judge would treat you fairly? Why or why not?